IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Crl.Rev.Pet.No. 755 of 2002()

CRA.90/1994 of SESSIONS COURT, MANJERI
CC.177/1993 of JUDL. MAGISTRATE OF FIRST CLASS, MALAPPURAM

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REVN. PETITIONER: REVN. PETITIONER/I APPELLANT/1 ACCUSED:

THEKKODAN USMAN, S/O. KUNHALAN,
P.O. MELMURI, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: RESPONDENT/COMPLAINANT/STATE:

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1. THE CIRCLE INSPECTOR OF POLICE,
MALAPPURAM.

2. THE STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 05/11/2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.4396/2002 IN CRL.R.P.NO.755/2002

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

05/11/2007

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K.R.UDAYABHANU, J.

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Crl. R.P.No.755 of 2002

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Dated this the 5th day of November, 2007

O R D E R

The revision petitioner who is the first accused in C.C.No.177/1993 in the court of the Judicial Magistrate of the First Class, Malappuram, stands convicted for the offences under Sections 332 and 323 read with Section 34 I.P.C and sentenced as modified by the appellate court to undergo simple imprisonment for three months for the offence under Section 332 I.P.C and to undergo simple imprisonment for one month for the offence under Section 323 I.P.C. The third accused is absconding and the second accused was acquitted by the Sessions Judge in Crl.A.No.90/1994.

2. The prosecution case is that on 15/02/1993 at 6 p.m the accused, three in number, in furtherance of their common intention to deter PW.1 the Sub Inspector of Police from discharge of his official duties, voluntarily caused hurt to him when he was proceeding through the road at Moochikundu in connection with an investigation of a theft case and that the accused also caused hurt to PWs.2 and 3 by fisting them with hands.

3. The evidence adduced in the matter consisted of the testimony of PWs.1 to 7 and Exts.P1 to P8. Defence examined DW.1.

4. The counsel for the revision petitioner has only sought for modification of sentence. It is submitted that the incident has taken place in February 1993 and that so many years have elapsed since then and the revision petitioner/accused was facing the proceedings so long and that his earnings is the sole means of livelihood of his family. The conviction is confirmed. In the circumstances and considering the long lapse of time the sentence imposed for the offence under Section 332 I.P.C read with Section 34 I.P.C is modified to imprisonment till the rising of the court and to pay a compensation of rupees ten thousand to PW.1 and in default to undergo simple imprisonment for six months. The revision petitioner is granted four months time to remit the compensation amount. He shall appear before the Judicial Magistrate of the First Class, Malappuram, on 06/03/2008 to receive the sentence. No separate sentence is awarded for the offence under Section 323 I.P.C. The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl. R.P.No.755 of 2002

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O R D E R

5th November, 2007